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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-273

13 **JENNIFER ELYSE UDO, aka**
14 **JENNIFER ELYSEUDO OWENS**

15 2305 Gale Avenue
16 Long Beach, CA 90810

A C C U S A T I O N

17 Registered Nurse License No. 484539

18 Respondent.

19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs, State of California.

24 2. On or about August 31, 1992, the Board issued Registered Nurse License
25 Number 484539 ("license") to Jennifer Elyse Udo, also known as Jennifer Elyseudo Owens
26 ("Respondent"). The license will expire on January 31, 2010, unless renewed.

27 **JURISDICTION**

28 3. Section 2750 of the Business and Professions Code ("Code") provides, in
pertinent part, that the Board may discipline any licensee, including a licensee holding a

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1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Section 2764 of the Code provides, in pertinent part, that the expiration of
4 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
5 against the licensee or to render a decision imposing discipline on the license. Under section
6 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
7 the expiration.

8 STATUTORY PROVISIONS

9 5. Code section 481 provides:

10 Each board under the provisions of this code shall develop
11 criteria to aid it, when considering the denial, suspension or revocation
12 of a license, to determine whether a crime or act is substantially related
13 to the qualifications, functions, or duties of the business or profession it
14 regulates.

13 6. Code section 492 provides:

14 Notwithstanding any other provision of law, successful
15 completion of any diversion program under the Penal Code, or
16 successful completion of an alcohol and drug problem assessment
17 program under Article 5 (commencing with Section 23249.50) of
18 Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
19 agency established under Division 2 (commencing with Section 500) of
20 this code, or any initiative act referred to in that division, from taking
21 disciplinary action against a licensee or from denying a license for
22 professional misconduct, notwithstanding that evidence of that
23 misconduct may be recorded in a record pertaining to an arrest.

20 This section shall not be construed to apply to any drug diversion
21 program operated by any agency established under Division 2
22 (commencing with Section 500) of this code, or any initiative act
23 referred to in that division.

22 7. Code section 2761 states, in pertinent part:

23 The board may take disciplinary action against a certified or
24 licensed nurse or deny an application for a certificate or license for any of
25 the following:

25 (a) Unprofessional conduct, ...

26 ...

27 (d) Violating or attempting to violate, directly or indirectly, or
28 assisting in or abetting the violating of, or conspiring to violate any
provision or term of this chapter or regulations adopted pursuant to it.

1 8. California Code of Regulation, title 16, section 1444 provides:

2 A conviction or act shall be considered to be substantially related
3 to the qualifications, functions or duties of a registered nurse if to a
4 substantial degree it evidences the present or potential unfitness of a
5 registered nurse to practice in a manner consistent with the public health,
6 safety, or welfare. Such convictions or acts shall include but not be
7 limited to the following:

8 (c) Theft, dishonesty, fraud, or deceit.

9 9. Code section 2762 states, in pertinent part:

10 In addition to other acts constituting unprofessional conduct within
11 the meaning of this chapter [the Nursing Practice Act], it is unprofessional
12 conduct for a person licensed under this chapter to do any of the
13 following:

14 (b) Use any controlled substance as defined in Division 10
15 (commencing with Section 11000) of the Health and Safety Code, or any
16 dangerous drug or dangerous device as defined in Section 4022, or
17 alcoholic beverages, to an extent or in a manner dangerous or injurious to
18 himself or herself, any other person, or the public or the extent that such
19 use impairs his or her ability to conduct with safety to the public the
20 practice authorized by his or her license.

21 10. Code section 4022 states, in pertinent part:

22 "Dangerous drug" or "dangerous device" means any drug
23 or device unsafe for self-use in humans or animals, and includes
24 the following:

25 (a) Any drug that bears the legend: "Caution: federal law
26 prohibits dispensing without prescription," "Rx only," or words of
27 similar import.

28 (b) Any device that bears the statement: "Caution: federal
law restricts this device to sale by or on the order of a -----," "Rx
only," or words of similar import, the blank to be filled in with the
designation of the practitioner licensed to use or order use of the
device.

(c) Any other drug or device that by federal or state law can
be lawfully dispensed only on prescription or furnished pursuant to
Section 4006.

COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Board may request
the administrative law judge to direct a licentiate found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation

1 and enforcement of the case.

2 **DRUG CLASSIFICATIONS**

3 12. **Effexor**, a trade name for Venlafaxine, is a prescription drug for the
4 treatment of depression and a dangerous drug within the meaning of Code section 4022.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Substantially Related Crime/Act)**

7 13. Respondent is subject to disciplinary action under Code sections 481, 490
8 and 2761, subdivision (d), in conjunction with California Code of Regulations, title 16, section
9 1444, in that on or about November 1, 2006, in the Superior Court of California, County of Los
10 Angeles, in the case entitled, *People of the State of California v. Jennifer Elyse Owens*
11 (Super Ct. Los Angeles County, 2006, Case No. 6LG03310), Respondent pled nolo contendere
12 of violating Penal Code section 487, subdivision (a) (Grand Theft of Personal Property), a
13 misdemeanor. On or about May 28, 2008, the matter was dismissed pursuant to Penal Code
14 section 1385 for successful completion of the court's diversion. The circumstances of the
15 crime/act are that on or about September 14, 2006, Respondent stole merchandise from the
16 Target Store, the value of which exceeded \$1,600.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Used Drugs/Alcohol in a Manner Dangerous or Injurious to Herself or Others)**

19 14. Respondent is subject to disciplinary action under Code section 2761,
20 subdivision (a), as defined in Code section 2762, subdivision (b), in that Respondent used
21 dangerous drugs and alcohol to an extent or in a manner dangerous or injurious to herself or
22 others, as follows:

23 a. On or about November 28, 2005, Respondent was transported to the
24 Long Beach Memorial Medical Center Emergency Room for loss of consciousness due to
25 alcohol intoxication, in that Respondent admitted she drank a fifth of a bottle of vodka with an
26 excessive dose of Effexor, a dangerous drug. Her EtOH (ethanol) level was tested at 276
27 MG/DL.

28 b. On or about August 20, 2006, Respondent was transported to the Long

1 Beach Medical Center Emergency Room for loss of consciousness due to acute alcohol
2 intoxication. Her EtOH (ethanol) level was tested at 450 MG/DL.

3 **PRAYER**


4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 484539 issued
7 to Jennifer Elyse Udo, also known as Jennifer Elyseudo Owens;

8 2. Ordering Jennifer Elyse Udo, also known as Jennifer Elyseudo Owens, to
9 pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to
10 Code section 125.3; and,

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 4/28/09

13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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